THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 19377 of 2007

Date:17-09-2007

Between:

Smt.Penamatcha Ramavathi

.. PETITIONER

AND

The Chief Commissioner of Land Administration, Hyderabad and another

..

RESPONDENTS

-

-

ORDER:

Petitioner seeks a writ of mandamus to declare the action of the 1st respondent in not disposing the statutory appeal filed by the petitioner in Appeal No.L1/126 of 2005 before the first respondent claiming ryotwari patta in respect of the lands situated in Sy.No.85/1 to an extent of 4-00 hectors and in Sy.No.104/1 to an extent of 0-64 hectors situated at Yetapaka village, Bhadrachalam mandal, Khammam District, as illegal and arbitrary.

It is stated that the petitioner has purchased the lands situated in Sy.No.85/1 to an extent of 4-00 hectors and in Sy.No.104/1 to an extent of 0-64 hectors situated at Yetapaka village, Bhadrachalam mandal, Khammam District through the registered agreement of sale deed, dated 15.03.1968 and therefore, he is entitled for ryotwari patta under A.P. (Scheduled Area) Ryotwari Settlement Regulation 2 of 1970. The Settlement Officer, Venaktapuram Unit at Bhadrachalam by order in Case No.5361, dated 04.11.1977 disallowed the case of the petitioner for grant of ryotwari patta under Section 7(1) read with Section 9 of Regulation 2 of 1970 on the ground that the said land has been purchased through unregistered sale agreement and 10(1) account relating to F-1362 do not contain the name of the petitioner or the seller's name and therefore, the sale is null and void under Regulation 1 of 1970.

Aggrieved by the said order, the petitioner filed an appeal before the Director of Settlements, Survey and Land Records, A.P. Hyderabad in Appeal No.240 of 1979 which was also dismissed by

order, dated 10.11.1981 confirming the order of the Settlement Officer on the ground that the petitioner failed to adduce any evidence to show that he was in possession since 1961 as contended by him and to grant ryotwari patta one should have continuous possession for a period of eight years.

It is stated that the said order of the Director of Settlements has been served only on 10.02.2005 and accordingly the petitioner filed second appeal before the Chief Commissioner of Land Administration on 24.02.2005 along with petition to condone the delay and also stay application.

It is stated that the Chief Commissioner of Land Administration issued a notice in CCLA's Ref.No.L1/126/2005, dated 06.02.2007 and 17.04.2007 requesting the petitioner to appear on 04.05.2007 with regard to condonation of delay and admission of appeal. It is stated that the Chief Commissioner of Land Administration has not taken up the proceedings and the cases are pending.

Learned counsel appearing for the petitioner seeks to issue a writ of mandamus not to dispossess the petitioner pending disposal of the appeal. The petitioner also relied on a memo of the government in Memo No.892/J2/80-1, dated 17.07.1980 wherein the District Collectors are requested to issue instructions to the Tahsildars not to evict the claimants whose cases are pending before the settlement authorities for grant of ryotwari pattas.

In the instant case, the Director of Settlements i.e. first appellate authority rejected the claim of the petitioner by order, dated 10.11.1981. Whether the order of the appellate authority, dated 10.11.1981 has actually served as alleged by the petitioner on 10.02.2005 and whether there was any delay in filing the appeal, are the matters to be considered by the Second Appellate Authority i.e. first

respondent herein. Therefore, I am not inclined to grant any interim order. But, however, as the application is pending before the first respondent, the first respondent is directed to dispose of the application in CCLA's Ref.No.L1/126/2005 with regard to delay condonation within two weeks from the date of receipt of a copy of this order and if the delay is condoned, and the appeal is admitted, there shall be stay of the dispossession of the petitioner pending disposal of the appeal.

With the aforesaid observations, the writ petition is disposed of. No costs.

_____

V.ESWARAIAH, J.

Date:17.09.2007

Note:

Furnish C.C. within three days.

B/O

ccm